

1 **UNITED STATES DISTRICT COURT**
2 **NORTHERN DISTRICT OF CALIFORNIA**

3 PHILLIP BELL JR.; LORNA BARNES; and
4 ANTHONY BARNES.

Case no: 4:24-cv-05545-JST

5 Plaintiffs,

6 v.

7 SADDLEBACK VALLEY UNIFIED SCHOOL
8 DISTRICT; KLUTCH SPORTS;
9 NEXT LEVEL SPORTS & ACADEMICS; and
ISAHIA SANDOVAL; EDWARD WONG
10 TRICIA OSBORNE, CHAD JOHNSON;
STEVE BRISCOE,
AND DOES 1-20 in their
11 individual and official capacities.

12 Defendants.

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PLAINTIFFS' OUT OF TIME MOTION IN OPPOSITION TO DEFENDANTS WONG,**JOHNSON, AND OSBORNE'S MOTION TO DISMISS FOR IMPROPER VENUE**

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2
3 Come the Plaintiffs, Phillip Bell Jr., Lorna Barnes, and Anthony Barnes, by counsel, and
4 hereby submit this Out of Time Motion in Opposition to Defendants Wong, Johnson, and Osborne's
5 Motion to Dismiss for Improper Venue (Dkt. 113). For the reasons set forth below, the Motion to
6 Dismiss should be denied.
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8 III. THE ISSUES RAISED BY DEFENDANTS ARE NOT YET RIPE
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10 Plaintiffs have filed a Motion for Leave to Amend the Complaint to re-add Briscoe and Next
11 Level. If the amendment is granted, Defendants' jurisdictional argument in Dkt. 113-1 may become
12 moot. Ruling now, before the amendment issue is decided, would be premature and an inefficient
13 use of judicial resources.
14

15 IV. VENUE IN THE NORTHERN DISTRICT REMAINS PROPER
16

17 Even if Briscoe is not re-added, venue remains proper in the Northern District of
18 California.²⁸ U.S.C. § 1331(b)(2) provides that venue lies where a "substantial part of the events or
19 omissions giving rise to the claim occurred."
20

21 The central act giving rise to this litigation is the violation of a San Francisco Superior Court
22 custody order — an order issued in this District and governing a Northern California minor.
23 Defendants cannot benefit from violating a Northern California custody order by shifting venue to
24 the district where they carried out that violation. See *Krain v. Devich*, 967 F.2d 587, 588 (9th Cir.
25 1992); *Bozic v. U.S. Dist. Ct.*, 2018 WL 1959534, at *1 (9th Cir. Apr. 25, 2018).
26
27

1 **V. DEFENDANTS SHOULD NOT BE REWARDED FOR VENUE SHOPPING**

2 Allowing Defendants to invoke venue in the very district they entered to violate a Northern
3 California custody judgment would reward misconduct and invert the statute.

4 Further, forcing venue into Southern California would impose an undue burden on Plaintiffs:

- 5 • Plaintiffs and their counsel are located in Northern California
6 • Phillip Bell III no longer resides in Southern California

7 Thus, the only party who benefits from dragging venue south is the wrongdoer. The purpose of §
8 1391(b)(2) is not to privilege convenience for the party who violated a court order.

9
10 **VI. CONCLUSION**

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12 For the foregoing reasons, Plaintiffs respectfully request that this Court DENY Defendants' Motion
13 to Dismiss for Improper Venue (Dkt. 113).

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15 Respectfully submitted,

16
17
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/s/ Jamir Davis